

**REMARKS/ARGUMENTS**

Applicant requests reconsideration of the application in view of the foregoing amendments and following remarks.

Claims 1, 4, 5, 7-16, 19 and 20 were rejected. Claims 2, 3, 6, 17, and 18 were objected to as being dependent on rejected base claims. Claims 15 and 20 have been for amended. Claim 15 was amended to include elements of sand paper. No new matter has been introduced. Claim 20 has been amended for clarification only.

Base claim 15 was rejected under 35 USC 102(b) as being anticipated by Cosmic Pet Product's Alpine scratcher. Applicant respectfully submits that the cited reference does not incorporate an "abrasive surface" as recited in claim 15. An "abrasive surface" is set forth in the specification of the present application to include sand paper and dulling elements that provide surfaces capable of dulling or "sanding" an animal's claws. Corrugate cardboard, or a "cardboard block" as disclosed in the cited reference, is not intended for such use. The reference provided also makes no reference to the dulling or sanding claws, but only to cleaning. Even non-abrasive surfaces can be used for cleaning. The cited reference does not anticipate claim 15, nor provide any motivation or suggestion to utilize an abrasive surface.

Base claims 1 and 15, and dependent claims 4 and 16 that depend therefrom respectively, were rejected under 35 USC 103(a) as being unpatentable over Kahanick (3,486,485) in view of Kacic (5,564,365). Kahanick discloses a corrugated bundle without an abrasive surface. The Examiner notes that Kacic discloses an "abrasive material." However, Kacic discloses the abrasive material as being disposed within a litter box. There is no motivation or suggestions within Kacic to utilize the abrasive material with a corrugated bundle or any other scratching device. Indeed, the disclosure in Kacic teaches away from the present invention by alleging that cat owners are "seldom successful" at getting their cats to scratch scratching posts instead of furniture, Kacic, col 1, lines 63-67, while alleging that what is needed is something that "a domestic cat... will frequently come into contact with." Id. col. 2, lines 5-8. This teaches away from using an abrasive surface with scratching devices (e.g. scratch posts or other scratching device like corrugated bundles). Also, there is no motivation or suggestion to use an abrasive surface or dulling element in Kahanick. That reference is directed toward scratching devices and not devices for dulling animal claws. Although a prior art device "may be capable of

being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." MPEP 2143.01 citing *In Re Mills*, 916 F.2d 680, 682 (Fed. Cir. 1990). No such suggestion or motivation exists in Kahanick. Base claims 1 and 15 are therefore in condition for allowance. Further rejections for claim 15 are addressed below.

Base claims 1, 12 and 15 and independent claims 4, 5, 7, 9-11, 13-14 and 19 that dependent therefrom, were rejected under 35 USC 103(a) as being unpatentable over Pettsuruto (JP 11018609A) in view of Kacic (5,564,365). Again, Kacic teaches away from attempting to dull animal claws using scratching devices like the scratching device of the present invention. Also, Pettsuruto, like Kahanick, provides no motivation or suggestion to combine the disclosed scratcher invention with an abrasive surface. Applicant respectfully submits that base claim 1, 12 and 15 remain in condition for allowance as do all dependent claims that depend therefrom.

Applicant respectfully submits all base claims of the present invention are now in condition for allowance as presented above. All dependent claims that depend therefrom are thus also in condition for allowance. Applicant wishes to thank the Examiner for her time and consideration in the present application and requests that the Examiner contact the undersigned if questions remain.

Respectfully submitted,

Michael Diep



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David Chen Registration No. 51375

Enclosures:

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Transmittal Form

PO Box 3041  
Seattle WA 98114-3041  
Phone: (206) 583-2609  
Fax: (206) 583-2344